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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

von BORSTEL et al

Atty. Ref.: 1331-352

Serial No. 09/930,494

TC/A.U.: 1623

Filed: August 16, 2001

Examiner: Patrick T. Lewis

For: COMPOSITIONS AND METHODS FOR TREATMENT OF  
MITOCHONDRIAL DISEASES

\* \* \* \* \*

June 28, 2004

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

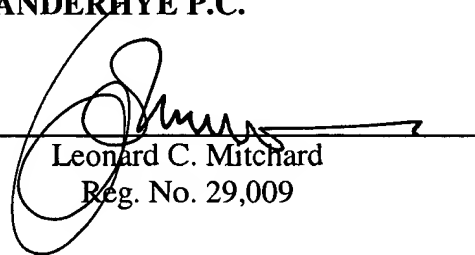
The Examiner is advised that claims 41 and 42 (copy attached) in co-pending U.S. Application No. 09/838,136 have been provisionally rejected for obviousness-type double patenting over claims 1, 5 and 31 of the subject application. Claims 41-42 in the co-pending application are substantially the same as withdrawn claims 42-43 of the subject application. Claims 42-43 were withdrawn in response to a March 19, 2003 restriction requirement in the subject application. Thus, the Examiner has indicated that the subject matter of claims 42-43 (corresponding to claims 41-42 in the co-pending application) are considered to be patentably distinct from the subject matter of claims 1, 5 and 31.

The Examiner is requested to initial the attached form PTO-1449 and to return a copy of the initialed document to the undersigned.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: \_\_\_\_\_

  
Leonard C. Mitchard  
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